

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

DISTRICT OF UTAH

BY: DEPUTY CLERK

FRANCIS E. LEWIS, :

Plaintiff, : ORDER ADOPTING REPORT
vs. : AND RECOMMENDATION

JO ANNE B. BARNHART, Commissioner :
of Social Security, : Case No. 2:04 CV 650 TC

Defendant.

Before the court is Plaintiff Francis E. Lewis' appeal from the denial of his application for Disability Insurance Benefits under Title II of the Social Security Act, 42 U.S.C. § § 401-433. Mr. Lewis' claim was denied initially and upon reconsideration. A hearing was held before the Administrative Law Judge (ALJ) on January 8, 2003. The record was supplemented with two additional medical reports on January 26, 2003. On April 14, 2004, the ALJ determined Mr. Lewis was not disabled within the meaning of the Social Security Act thereby denying Mr. Lewis disability insurance benefits.

Mr. Lewis' appeal was referred to Magistrate Judge Brooke C. Wells pursuant to 28 U.S.C. § 636(b)(1)(B). Judge Wells issued her Report and Recommendation on October 5, 2005, finding "there is not substantial evidence in the record to support the decision of the ALJ to deny benefits." Judge Wells recommended that Mr. Lewis' request for remand be granted and directed the ALJ to "reconsider the opinions of Dr. Reichman or ask for testimony or clarification

consistent with this opinion or should grant Mr. Lewis benefits."

The parties were given ten days from the date of the issuance of the Report and Recommendation to file objections; neither party has filed objections.

The court has conducted a *de novo* review of Judge Wells' recommendation and agrees therewith. Accordingly, the Report and Recommendation is adopted as the order of this court. The matter is remanded to the ALJ for further consideration.

DATED this 2 day of November, 2005.



TENA CAMPBELL
United States District Judge